

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



November 2, 2001

ALL COUNTY LETTER 01-76

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM COORDINATORS
ALL COUNTY WELFARE –TO-WORK COORDINATORS
ALL FOOD STAMP PROGRAM COORDINATORS
ALL MEDI-CAL PROGRAM COORDINATORS

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☒ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

SUBJECT: INDIVIDUAL DEVELOPMENT ACCOUNTS

REFERENCE: Welfare and Institutions Code (WIC) 11155.2(c), Health and Safety Code (HSC) 50897, United States Code (USC) 404(h), Manual of Policies and Procedures (MPP) 89-130, MPP 63-501.3(h)

The purpose of this All County Letter (ACL) is to provide clarification on the treatment of Restricted Accounts, Temporary Assistance for Needy Families (TANF) Individual Development Accounts (IDAs) and other asset building accounts (ABAs) in the CalWORKs program. Several agencies currently have the authority to establish IDAs or ABAs with or on behalf of an eligible participant. Many of their participants will likely be CalWORKs recipients.

CalWORKs RESTRICTED ACCOUNTS (MPP 89-130)

In addition to the \$2,000 resource limit, CalWORKs rules allow a recipient to set aside up to \$5,000 in a Restricted Account to be retained for use in securing a home, paying for educational expenses or starting a business. Up to \$5,000 in a Restricted Account would be exempt under the Restricted Account provision. Any accessible funds in excess of \$5,000 would be considered in the resource limit when determining eligibility.

The requirements for establishing a Restricted Account differ from the provisions for establishing TANF IDAs. For example, under CalWORKs, recipients may place earned or unearned funds from any source into a savings account established in

accordance with MPP 89-130. But, TANF requirements allow only recipient-earned income to be contributed to a trust account. The attached chart reflects the major differences.

Further, a Restricted Account could be eligible to receive federal matching funds if it is established in accordance with the TANF IDA provisions or those provisions contained in other federal law such as under the Assets for Independence Demonstration Project.

Note: Restricted Account provisions do not apply to applicant cases, and all other CalWORKs regulations regarding treatment of income and resources continue to apply.

TANF IDAs

42 USC Section 604(h) Section 404(h) of the Social Security Act allows the establishment of TANF IDAs by qualified entities, federal matching of these accounts and exemption from the eligibility and grant determinations of federal means-tested programs. IDAs must be established as a trust account for a specified purpose by or for an individual who is eligible under the state's TANF program. TANF provisions require that the recipient deposit only earned income into the IDA and that all funds in a TANF IDA be exempted from the eligibility and grant determination. These accounts are funded through periodic contributions by the establishing individual and matched by or through a qualified entity. IDA matching funds and the recipient contributions may be retained in separate accounts.

A qualified entity is defined as:

- A not-for-profit organization that is exempt from taxation under Section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under Section 501(a) of such code; or
- A State or local government agency acting in cooperation with a not-for-profit organization described above.

Federal Matching

Federal IDA matching funds may be used for accounts established in accordance with 42 USC Section 604(h) Section 404(h) of the Social Security Act or other IDA accounts established under other federal authorities. These matching funds can come from a variety of sources including, but not limited to, county Performance Incentive funds, foundations, not-for-profit organizations, Department of Labor (DOL) Welfare-to-Work (WtW) Grant funds or other organizations that meet the definition of qualified entity. Private for-profit entities may not directly fund an IDA, but may donate funds to a not-for-profit organization for that purpose.

Note: In accordance with Welfare and Institutions Code Section 15204.2, TANF block grant funds (single allocation funds) may not be used to match IDA accounts.

Federal Exemption

Federal law under 42 USC 604(H)(4) provides that funds in IDAs established for individuals eligible under the state's TANF program shall be exempted from the determination of eligibility and grant for any federal means-tested program. The eligibility worker must obtain a release from the individual account holder when seeking verification that the account meets the exemption criteria. Organizations responsible for establishing the IDA also have the responsibility to ensure that these accounts meet the TANF IDA (USC Section 604(H) Section 404(h)) requirements, when appropriate.

Under existing federal and state statutes, only two types of IDAs currently meet the criteria for the TANF automatic exemption. The first account is one established with WtW Grant funds and administered through the Employment Development Department jointly with a not-for-profit organization. The second type of account is an account established using county Performance Incentive funds and administered jointly with a not-for-profit organization. To be automatically exempted from the CalWORKs eligibility and grant amount determination, both types of accounts must meet all the provisions of 42 USC Section 604(h) Section 404(h) of the Social Security Act.

Duration of Exemption

All funds, including interest and match funds, retained in the IDA established under TANF requirements, are disregarded when determining eligibility and grant amount during any period in which the individual maintains or contributes to such an account.

ASSET BUILDING ACCOUNTS

For clarity, accounts that are established using provisions that differ from 42 USC Section 604 (h) Section 404(h) will be referred to as asset building accounts (ABAs). Currently there is no statutory or regulatory authority to *automatically* exempt ABAs from eligibility and grant determinations. Therefore, funds that are not exempt from consideration under the IDA or Restricted Account provisions should be evaluated under the current resource determination and valuation rules. Since welfare reform, CalWORKs follows the Food Stamp program rules for evaluating personal property/resources.

FOOD STAMP AND MEDI-CAL IMPACT

For the purpose of determining eligibility to receive or the amount of benefits under any federal-means tested programs, including Food Stamps and Medi-Cal, all funds in a TANF IDA shall be disregarded for applicants and recipients for any period the individual maintains or makes contributions into the account. Specific questions regarding the treatment of IDAs and ABAs should be directed to the state contact for these programs.

QUESTION AND ANSWERS

There is currently available on the Administration for Children and Families (ACF) website, IDA policy questions and answers. For your convenience, a copy of this information is attached to this ACL.

If you have questions regarding:

CalWORKs - RAs and IDAs	Rosie Avena	(916) 654-1786
DOL WtW Program - IDAs	Pat Loader	(916) 654-1770
Food Stamp Program - IDAs	Doris Bowers	(916) 654-0710
Medi-Cal - IDAs	Department of Health Services	(916) 657-2942

Sincerely,

Signed by
JO WEBER, CHIEF for
BRUCE WAGSTAFF
Deputy Director
Welfare Programs Division

Attachments

c: CWDA
CSAC

MAJOR DIFFERENCES IN INDIVIDUAL DEVELOPMENT ACCOUNT RULES

Element	CalWORKs Restricted Accounts	TANF IDA
General	<ul style="list-style-type: none"> Restricted Accounts rules are already in place for recipients. These rules do not apply to applicants. 	<ul style="list-style-type: none"> May use TANF funds to carry out a program to fund IDA established by individuals eligible for assistance under the State program funded under TANF.
Accounts	<ul style="list-style-type: none"> Before an account can be designated as "restricted," the recipient must enter into a written agreement (CW 86 (3/00)). The restricted account must be established and maintained separately from any other accounts. The recipient is advised to first retain resources close to the \$2,000 limit to pay for unexpected expenses or emergencies before they enter into a written agreement. 	<ul style="list-style-type: none"> An IDA shall be a trust created or organized in the United States. No requirement for written agreement to be established before an IDA can be opened.
Withdrawal of Funds and Penalties for Non-qualifying Withdrawals	<ul style="list-style-type: none"> The recipient is allowed 30 calendar days from the date of a withdrawal to expend funds for a qualifying withdrawal. When the county determines that a non-qualifying withdrawal exists, the county calculates a period of ineligibility. 	<ul style="list-style-type: none"> Code of Federal Regulations (CFR) Section 263.23 (April 12, 1999) provides that withdrawals from the IDA must be paid directly to a college or university, a bank, savings and loan institution, an individual selling a home or a special account if the individual is starting a business. States have broad flexibility to establish procedures that ensure that only qualified withdrawals are made. Some states: <ul style="list-style-type: none"> Count withdrawals as earned income in the month of withdrawal (unless already counted as income); Count withdrawals as resources in determining eligibility; Take such other steps as the State has established in its State plan or written State policies to deter inappropriate use.
Who is Eligible?	<ul style="list-style-type: none"> CalWORKs recipients (not applicants) can retain a maximum cash reserve of \$5,000 in one or more restricted accounts at a financial institution. 	<ul style="list-style-type: none"> An IDA may be established by or on behalf of an individual eligible for assistance under the State program.
Individual's Contributions	<ul style="list-style-type: none"> Any source. No requirements or limitations are specified in statute or regulations. 	<ul style="list-style-type: none"> Contributions to be from earned income. Funded through periodic contributions by the establishing individual.

MAJOR DIFFERENCES IN INDIVIDUAL DEVELOPMENT ACCOUNT RULES		
Element	CalWORKs Restricted Accounts	TANF IDA
Match Requirements	<ul style="list-style-type: none"> There are no provisions in statute or regulations to match funds. 	<ul style="list-style-type: none"> IDA funds are matched by or through a nonprofit, tax-exempt organization or a state or local government agency that works cooperatively with a nonprofit, tax-exempt organization for a qualified purpose. Does not allow for matching from private sources. However, private donations to a non-profit would be allowable.
Limits	<ul style="list-style-type: none"> \$5,000 Limit. 	<ul style="list-style-type: none"> No specified limits or maximums.
Qualified Use of Funds	<ul style="list-style-type: none"> Purchase of a home that will be the principal residence of the assistance unit (AU). Any education or vocational training expenses. Limits expenses to those of the account holder or any person who is claimed or could be claimed by the account holder as a dependent for federal income tax purposes. Business expenses directly related to the start up costs of a new business. No requirements to keep the business account separate from other restricted accounts or to have a business plan in place. 	<ul style="list-style-type: none"> <u>First Home Purchase</u> - Costs of acquiring a qualified principal residence for a qualified taxpayer (and, if married, the taxpayer's spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence. <u>Post-secondary Educational</u> expenses (tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, and fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution) paid from an IDA directly to an eligible educational institution. Federal requirements do not specify for whom the expenses may be incurred. <u>Job training</u> which is not at the post-secondary level or in an eligible educational institution is not an allowable expense. <u>Business Capitalization</u> amounts paid from an IDA directly to a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses. Requires expenditures be included in a qualified business plan which: <ol style="list-style-type: none"> Is approved by a financial institution, or by a nonprofit loan fund having demonstrated fiduciary integrity, Includes a description of services or goods to be sold, a marketing plan, and projected financial statements, and May require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

MAJOR DIFFERENCES IN INDIVIDUAL DEVELOPMENT ACCOUNT RULES

Element	CalWORKs Restricted Accounts	TANF IDA
Exemption of Funds	<ul style="list-style-type: none"> Interest earned from these accounts and deposited directly into the account by the financial institution is considered exempt for eligibility and grant determinations. Interest that is not directly deposited into the restricted account is a non-qualifying withdrawal. (A 30 calendar day grace period is allowed if the financial institution fails to make the deposit in error.) There are no provisions to exempt matching contributions that exceed the \$5,000 limit. 	<ul style="list-style-type: none"> Funds (including accrued interest) in the IDA are disregarded for purpose of determining eligibility to receive, or the amount of, any assistance or benefit with respect to any period during which such individual maintains or makes contributions into such an account. If an entity operates an IDA using terms and conditions in the trust agreement that are inconsistent with the TANF IDA criteria, the funds in the account may not be excluded under the TANF exclusion when determining CalWORKs eligibility and grant.

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Administration for Children and Families Policy Questions and Answers

<http://www.acf.dhhs.gov/programs/ofa/polquest/idas.htm>

Individual Development Accounts (IDAs):

Q1: May recipients use money from tax refunds, including EITCs, as contributions to IDAs?

A: Recipients may make contributions based on any refund that can be attributed to earned income, due either to an over withholding of employment earnings or an earned income credit. In fact, recipient contributions may come from any source as long as the total contribution does not exceed his or her earned income.

Q2: May Federal TANF funds be used to satisfy the matching requirement of the Assets for Independence demonstration?

A: No. Federal appropriations law, supported by Comptroller General decisions, prohibits the use of Federal funds from one program to satisfy the matching requirement of another Federal program unless explicitly authorized by Congress. Because the statute establishing the Assets for Independence demonstration does not contain a provision that permits other Federal funds to be used to satisfy its matching requirement, States may not use Federal TANF funds for such a purpose.

Q3: May State MOE funds be used to satisfy the matching requirement of the Assets for Independence demonstration?

A: No. Section 409(a)(7)(B)(iv) (IV) prohibits the use of "any State funds which are expended as a condition of receiving Federal funds other than under this part." Thus, State funds that are expended in order to receive other Federal funds -- outside of title IV-A of the Social Security Act (e.g., Federal funds available via the Assets to Independence demonstration) -- would not be allowable as State MOE expenditures.

Q4: If a State contributes funds in excess of the amount needed to access Federal Assets for Independence demonstration funds, may it count the excess amount as an MOE expenditure?

A: Yes, a State may count, as MOE, State funds that it contributes above the level needed to access Federal Assets for Independence funds -- as long as those funds are not used as match or as a condition of receiving funds from another Federal program.

Q5: May a State use Federal TANF (or State MOE) funds to help pay for an IDA program under which car purchases are a qualified expenditure?

A: Section 404(h) of the Social Security Act authorizes the use of Federal TANF funds for IDAs. Under this provision, postsecondary educational expenses, a first home purchase, and business capitalization are the only "qualified purposes" for account

Administration for Children and Families Policy Questions and Answers

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funds. Similar language governs use of IDA funds under the demonstration program authorized under the "Assets for Independence Act." Thus, neither of these programs permits the use of IDA assets for the purchase of an automobile (except in the limited circumstances where an automobile would qualify as a business capitalization expense).

However, in light of the broad general flexibility under TANF (i.e., section 404(a)(1)), a State may use Federal TANF funds in other types of IDAs or asset-building programs that permit car purchases as qualified expenditures and support TANF purposes. In other words, a State could use TANF funds to match the savings of a needy parent for any purpose that is reasonably calculated to accomplish one of the TANF goals. The State would have broad discretion in determining the allowable purposes for the savings, the appropriate match rate, and the other conditions and circumstances under which it will match savings.

It is important to note that section 404(h)(4) provides that funds in an IDA account operated under section 404 of the Act would be excluded in determining benefits under Federal law. If a State operates an IDA under a different authority, e.g., under State law, the IDA assets would not automatically be excluded in determining such benefits. A State would have to separately examine the policies in effect under these benefit programs and see what flexibility they would have to continue benefits to families, notwithstanding the receipt of IDA income or accrual of IDA assets. For example, (1) States may disregard IDA funds from income and resources under their TANF programs; and (2) States have authority under section 1931 of the Act to use less restrictive income and resource policies in determining Medicaid eligibility under that section. There are also several provisions in the food stamp rules (e.g., the provision of categorical eligibility to TANF recipients) that States might use to protect families from losing these critical means-tested benefits.

A State may also use MOE funds to match the savings of a needy parent for any purpose that is reasonably calculated to accomplish one of the TANF goals. Thus, it may use MOE funds to: (1) provide supplemental funds to an IDA authorized under section 404(h); (2) provide supplemental funds (i.e., funds in addition to any State funds provided to meet cost-sharing requirements) to an IDA program authorized under the Assets for Independence Act; or (3) fund a State-designed program. Under a State-designed program, the State would have broader discretion in determining the allowable purposes for the savings, the appropriate match rate, and the other conditions and circumstances under which it will match savings.